

The Court has calculated the initial partial filing fee owed on appeal from the facility trust account submitted by Avila, *see* Doc. No. 78 at 6, and finds that Avila must submit an initial partial filing fee of \$40.87.¹ That amount is due and payable immediately. The entire remaining balance of the \$605.00 statutory filing fee will have to be paid in later installments. Officials at the facility where Avila is confined will be notified of this requirement and will be authorized to withdraw funds from Avila's facility trust account and remit those funds to the Court, consistent with § 1915(b).

CONCLUSION

Based on the submissions and the entire file and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. The application to proceed *in forma pauperis* on appeal of plaintiff Adolfo Gutierrez Avila, Jr. [Doc. Nos. 78 & 79] is **GRANTED**.
2. Avila must pay an initial partial filing fee of at least \$40.87 within 21 days of the date of this order.
3. Avila must pay the remainder of the unpaid balance (\$564.13) of the statutory filing fee for this action in the manner prescribed by 28 U.S.C. § 1915(b)(2), and the Clerk

¹ Avila's trust account statement shows that the amount of his average monthly deposits during the preceding six-month period was \$204.35, while his average balance during the same period was \$33.57. *See* Docket No. 78 at 6. Because the deposits amount exceeds the balance amount, Avila's initial partial filing fee in this case, under the formula prescribed by 28 U.S.C. § 1915(b)(1), will be twenty percent of the average deposits amount, or \$40.87.

of Court shall provide notice of this requirement to the authorities at the institution where Avila is confined.

Dated: November 26, 2024

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge